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MAILED

JUL 16 2009

OFFICE OF PETITIONS

In re Application of: :  
Awajiya et al. : LETTER REGARDING  
Application No. 10/500789 : PATENT TERM ADJUSTMENT  
Filing or 371(c) Date: 04/11/2005 :  
Atty. Docket No.: 04433/LH :

This letter is in response to the "LETTER REGARDING PATENT TERM ADJUSTMENT," filed April 1, 2009. The Office thanks applicants for their good faith and candor in bringing this to our attention.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is 481 days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

The Determination of Patent Term Adjustment mailed March 26, 2009 indicated that the above-identified application was entitled to a PTA of 519 days. Applicants do not dispute the adjustment to date of 519 days. Instead, applicants indicate that the adjustment of 519 days may extend the term of the patent by too many days and direct the Office's attention to the December 1, 2008 submission.

A review of the record reveals that the Office errantly neglected to assess a reduction of 38 days in accordance with 37 CFR 1.704(c)(8) in connection with the reply filed December 1, 2008. The reduction commenced October 25, 2008, the day after the date that the initial reply was filed, and ended December 1, 2008, the date that the supplemental reply (Letter) was filed.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is **481 days**, (575 days of PTO delay, reduced by 94 days of applicant delay), subject to any terminal disclaimer.

Given the basis for granting this petition, no fee has been charged. The Office thanks applicants for their candor and good faith in bringing this matter to the attention of the Office.

The file is being forwarded to the Office of Data Management for processing into a patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this matter should be directed to Attorney Derek Woods, at (571) 272-3232.



Alesia Brown  
Petitions Attorney  
Office of Petitions  
Office of the Deputy Commissioner  
for Patent Examination Policy

Enclosure: Updated PAIR Screen

Day : Tuesday  
Date: 7/14/2009

# **PALM INTRANET**

Time: 10:20:55

## **PTA Calculations for Application: 10/500789**

Application Filing Date:	04/11/2005	PTO Delay (PTO):	575
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	56
Post-Issue Petitions:	0	Total PTA (days):	481
PTO Delay Adjustment:	-38		

## **File Contents History**

Number	Date	Contents Description	PTO	APPL	START
66	07/14/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		38	
59	03/26/2009	MAIL NOTICE OF ALLOWANCE			
58	03/25/2009	ISSUE REVISION COMPLETED			
57	03/25/2009	DOCUMENT VERIFICATION			
56	03/25/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
55	03/25/2009	CASE DOCKETED TO EXAMINER IN GAU			
54	03/21/2009	NOTICE OF ALLOWABILITY			
46	03/18/2009	DATE FORWARDED TO EXAMINER			
45	03/16/2009	AMENDMENT AFTER FINAL REJECTION			
44	12/01/2008	MISCELLANEOUS INCOMING LETTER			
43	12/24/2008	MAIL FINAL REJECTION (PTOL - 326)			
42	12/22/2008	FINAL REJECTION			
41	10/24/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
40	10/16/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
39	11/13/2008	DATE FORWARDED TO EXAMINER			
38	10/24/2008	RESPONSE AFTER NON-FINAL ACTION		27	33
37	10/24/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
36	10/24/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
35	10/16/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
34	07/30/2008	FILING RECEIPT - CORRECTED			
33	06/27/2008	MAIL NON-FINAL REJECTION			
32	06/24/2008	NON-FINAL REJECTION			

31	05/06/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
28	05/06/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		0	26
27	05/20/2008	DATE FORWARDED TO EXAMINER			
26	05/06/2008	RESPONSE TO ELECTION / RESTRICTION FILED		29	23
25	05/06/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
24	05/06/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
23	01/07/2008	MAIL RESTRICTION REQUIREMENT	575		8
22	01/04/2008	REQUIREMENT FOR RESTRICTION / ELECTION			
19	10/17/2007	WITHDRAW FLAGGED FOR 5/25			
18	10/16/2007	FLAGGED FOR 5/25			
17	10/04/2007	CASE DOCKETED TO EXAMINER IN GAU			
14	07/11/2006	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
12	04/11/2005	REFERENCE CAPTURE ON IDS			
9	07/11/2006	CASE DOCKETED TO EXAMINER IN GAU			
8	04/11/2005	371 COMPLETION DATE			
7	04/27/2005	APPLICATION DISPATCHED FROM OIPE			
6	04/27/2005	NOTICE OF DO/EO ACCEPTANCE MAILED			
5	04/25/2005	CORRESPONDENCE ADDRESS CHANGE			
4	04/11/2005	ADDITIONAL APPLICATION FILING FEES			
3	04/11/2005	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			

Search Another: Application#

#### EXPLANATION OF PTA CALCULATION

#### EXPLANATION OF PTE CALCULATION

To go back, right click here and select Back. To go forward, right click here and select Forward. To refresh, right click here and select Refresh.

Back to [OASIS](#) | [Home page](#)